IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7700 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

LAXMI BRICKS WORKS

Versus

UNION OF INDIA

Appearance:

MS BIRLA for MR BM MANGUKIYA for Petitioner

MR JC SHETH for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 26/06/2000

ORAL JUDGEMENT

1. Prayer has been made in this Special Civil Application for a direction to deliver the coal wagon at the same price of coal and same freight charges as per R.R. at the place of destination.

2. This Special Civil Application was admitted by this Court after notice to the respondents on 22nd January, 1990. The respondents have not cared to file reply to the Special Civil Application and the averments made in the Special Civil Application stands uncontroverted. The averments made by the petitioner in the Special Civil Application are taken to be admitted.

4. Heard the learned counsel for the parties.

5. On the record of this application, I find that the petitioner has produced the original R.R. It is not in dispute that this consignment of the coal was not given to the petitioner. Though in this case a direction could have been given for giving this coal wagon to the petitioner, but looking to the facts of this case, interest of justice would be served in case the respondents are directed to give the cost of this coal weight, to be determined as on the date of booking of the same and on this amount to the petitioner, reasonable amount of interest may also be awarded.

6. In the result, this Special Civil Application is disposed of in terms that for the undelivered coal in dispute, the respondents are directed to determine the cost of it as on the date of the booking of the same at Eklehra and accordingly, the amount is to be paid to the petitioner together with interest thereof @ 12% per annum from 1st May, 1983. This exercise is to be undertaken and completed by the respondents within a period of two months from the date of receipt of writ of this order and the amount is to be paid thereafter to the petitioner within a period of one month next. The respondents are further directed to pay Rs.2000/- as the costs of this petition to the petitioner. The original R.R. is on the record of this Special Civil Application and the petitioner, if he desires, the Registry is free to give this to the petitioner on his application further, subject to the condition that the zerox copy of the same duly certified to be true and correct by the Advocate of the petitioner is to be kept on the file. Rule and Special Civil Application stand disposed of accordingly.

(S.K. Keshote, J.)
(kamlesh)